

Maine Revised Statutes

Title 12: CONSERVATION

Chapter 925: FISH AND WILDLIFE MANAGEMENT AND RESEARCH HEADING: PL 2003, c. 414, Pt. A, §2 (new); Pt. D, §7 (aff); c. 614, §9 (aff)

§12808. MISUSE OF ENDANGERED OR THREATENED SPECIES

For the purposes of this section, "to take," "take" and "taking" mean the act or omission that results in the death of any endangered or threatened species. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §310 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

1. Prohibited acts regarding endangered or threatened species; negligence. Except as provided in subsections 2 and 3, a person may not negligently:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class E crime; or [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

1-A. Prohibited acts regarding endangered or threatened species; intentional. Except as provided in subsections 2 and 3, a person may not intentionally:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class D crime; or [2005, c. 477, §23 (AMD).]

D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime. [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2005, c. 477, §23 (AMD) .]

2. Exceptions for certain purposes. Notwithstanding subsections 1 and 1-A or section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may:

A. Under such terms and conditions as the commissioner may prescribe, permit any act prohibited by this section or by rule for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Under such terms and conditions as the commissioner may prescribe, permit any endangered or threatened species that enters the State and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §313 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Exceptions; incidental take plan. Notwithstanding subsection 1, the commissioner may:

A. Permit the taking of any endangered species or threatened species if:

- (1) Such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;
- (2) The taking will not impair the recovery of any endangered species or threatened species; and
- (3) The person develops and implements an incidental take plan approved by the commissioner to take an endangered species or threatened species pursuant to paragraph B; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Allow a plan that minimizes the incidental taking of an endangered species or threatened species that specifies the following:

- (1) A description of the specific activities sought to be authorized by the incidental take permit and an analysis of potential alternatives;
- (2) The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the plan;
- (3) The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the plan;
- (4) The procedures for monitoring the effectiveness of the recovery measures in the plan;
- (5) The anticipated costs of implementing the plan and the availability of necessary funding for the applicant to implement the plan; and
- (6) Other modifications to the plan or other additional measures, if any, that the department may require and such other matters as the department determines to be necessary for the recovery of species consistent with this section. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

The department shall seek input from knowledgeable individuals or groups on each incidental take plan for endangered or threatened species.

If any person fails to abide by the terms of any permit authorizing the incidental taking of an endangered or threatened species, the permit must be immediately suspended or revoked.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B310-313 (AMD). 2003, c. 655, §B422 (AFF). 2005, c. 477, §23 (AMD).

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